

#### § 1180.4

may be determined to be a museum under this section. In order to establish its eligibility, such an institution must provide information regarding the following:

- (i) The number of staff members devoted to museum functions as described in paragraph (a) of this section.
- (ii) The period of time that such museum functions have been carried out by the institution over the course of the institution's history.
- (iii) Appropriate financial information for such functions presented separately from the financial information of the institution as a whole.
- (iv) The percentage of the institution's total space devoted to such museum functions.
- (v) Such other information as the Director requests.
- (3) The Director uses the information furnished under paragraph (d)(2) of this section in making a determination regarding the eligibility of such an institution under this section.
- (e) For the purpose of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

[48 FR 27728, June 17, 1983, as amended at 50 FR 27587, July 5, 1985]

#### § 1180.4 Other definitions.

The following other definitions apply in this document:

*Act* means the Museum and Library Services Act, Public Law 104-208 (20 U.S.C. 9101-9176).

*Board* means the National Museum Services Board established under Section 204 of the Act.

*Collection* includes objects owned, used or loaned by a museum as well as those literary, archival and documentary resources specifically required for the study and interpretation of these objects.

*Foundation* means the National Foundation on the Arts and the Humanities.

*Director* means the Director of the Institute of Museum and Library Services.

*Grantee* means the recipient of a grant under the Act.

*Institute* means the Institute of Museum and Library Services (IMLS) established under Section 203 of the Act.

#### 45 CFR Ch. XI (10-1-02 Edition)

*Museum services* means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and providing educational and other programs to the public through the use of its collections and other resources.

#### § 1180.5 Eligibility and burden of proof—Who may apply.

(a) A museum located in any of the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam, or the District of Columbia may apply for a grant under the Act.

(b) No museum is eligible to apply for funding available under the Act unless it has provided museum services, including exhibiting objects to the general public on a regular basis, for at least two years prior to application.

(c) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(d) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(e) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

(f) In a given year, a museum that has not received two consecutive General Operating Support awards in the immediately preceding two-year cycles is eligible to apply for General Operating Support.

[50 FR 27588, July 5, 1985, as amended at 60 FR 63964, Dec. 13, 1995]

#### § 1180.6 Related institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are separate museums for the purposes of establishing eligibility for assistance under these regulations. See §§ 1180.5 and 1180.9.

(b) IMLS regards the following factors, among others, as showing that a

## National Foundation on the Arts and the Humanities

## § 1180.10

related institution is a separate museum:

- (1) The institution has its own governing body;
- (2) The institution has budgetary autonomy; and
- (3) The institution has administrative autonomy.

### § 1180.7 General Operating Support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet administrative, staff and operating costs, except as otherwise provided in these regulations.

### § 1180.8 Two-year grant period.

(a) IMLS makes General Operating Support grants for a period of twenty-four months beginning with the first month of the grant period.

(b) A museum that receives a General Operating Support grant in a Federal fiscal year may not apply for an additional General Operating Support grant in the succeeding Federal fiscal year.

*Example.* A museum applies for a General Operating Support grant in Federal fiscal year 1993. The museum receives a grant that it may use during the applicable 24-month grant period. The museum may not apply for an additional General Operating Support grant in Federal fiscal year 1994.

[57 FR 36905, Aug. 17, 1992]

### § 1180.9 Limitation on amount of General Operating Support grants.

(a) *General rule.* IMLS makes General Operating Support grants in an amount not to exceed the lesser of:

(1) the ceiling amount established under paragraph (b);

(2)(i) 15 percent of the applicant museum's non-Federal operating income for its most recently completed fiscal year that is prior to the Federal fiscal year in which the application is filed; or

(ii) \$7,500, if larger.

(b) *Ceiling amount.* The ceiling amount of a General Operating Support grant will be established through a notice published in the FEDERAL REGISTER. Beginning in FY 1993, the ceiling amount is \$112,500.

(c) *Statutory requirement.* Under section 206(c) of the Act, IMLS may not

make a grant in excess of 50 percent of the annual cost of the program for which the grant is made. If the application of the \$7,500 limitation in paragraph (a)(2) of this section causes a General Operating Support grant to exceed 50 percent of the museum's annual operating income for the grant period in question, IMLS reduces the grant to that level in order to satisfy the statutory requirement.

(d) *Computation of non-Federal operating income.* For the purposes of this section, a museum may include in non-Federal operating income an amount reflecting the reasonable and conservative value of non-cash contributions to the museum in the applicable fiscal year.

*Examples.* The application of these rules is set forth in the following examples:

(1) In fiscal year 1993, a museum with calendar year 1991 operating income of \$5,000,000 applies to IMLS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than \$112,500, the lesser of \$112,500 and \$750,000 which is 15 percent of the museum's non-Federal operating income.

(2) In fiscal year 1993, a museum with calendar 1991 operating income of \$700,000 applies to IMLS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than \$105,000 the lesser of \$112,500 and 15 percent of the operating income which is \$105,000.

(3) In fiscal year 1993, a museum with calendar 1991 operating income of \$40,000 applies to IMLS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than \$7,500, the larger of \$7,500 or 15 percent of the museum's operating income which is \$6,000. The grant satisfies the requirement of paragraph (c) (and the statute) that it not exceed 50 percent of the museum's operating income for that year.

[57 FR 36905, Aug. 17, 1992]

### § 1180.10 Allowable costs.

(a) Determination of costs allowable under a grant is made in accordance with government-wide cost principles in applicable OMB circulars. (OMB circular A-21 (educational institutions) February 26, 1979, published in 44 FR 12368 (March 6, 1979); OMB circular A-87 (State and local governments) January 15, 1981 published in 46 FR 9548 (January 28, 1981); and OMB circular A-122